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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,469	03/31/2004	William Hatcher	06-561-JB	6384

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EXAMINER
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UTAMA, ROBERT J

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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08/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/815,469

Applicant(s)

HATCHER ET AL.

Examiner

Robert J. Utama

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

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**DETAILED ACTION*****Drawings***

1. The drawings are objected to because FIG. 1 – 16 contain dark smudge that seem preclude some of the detail in the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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**3. Claim 1,3-5, 12, 15-16 and 23-31 rejected under 35 U.S.C. 102(e) as being anticipated by Eckenwiler et al US 2003/0163292.**

**Claim 1:** Eckenwiler provide a teaching for training a user to perform task which includes movement of two or more items from a randomized state to an organized state (see Abstract), comprises of: representing in a computer the item in the randomized state (see paragraph 24-25 the randomized state is equated to the pre-sorted item); moving the times as represented with in the computer in accordance with the signal generated by the user (see paragraph 31-33 and FIG. 4) and verifying in the computer that the items as moved are in the organized state (see FIG 1 item "initial pack" – "most efficient pack" )

**Claim 3, 14 and 25:** Eckenwiler provides a teaching where the task includes movement of two or more items a randomized to an organized within a container (see paragraph 37 and FIG. 7).

**Claim 4, 15 and 26:** Eckenwiler provides a teaching quantifying a score for the user based on one or more rules governing the organized states (see FIG. 17 item "Effici" and paragraph 57).

**Claim 5, 16 and 27:** Eckenwiler provides a teaching where the organized state is a state of items packed in at least one carrier (see paragraph 57).

**Claim 8, 19 and 30:** Eckenwiler provides a teaching where at least one carrier includes two or more carrier and further wherein quantizing comprises of measuring distribution of weight among two or more carrier (see FIG 17 item "weight" and paragraph 57).

**Claim 9, 20 and 31:** Eckenwiler provides a teaching of determining a number of items per carrier or container (see FIG. 17 item "# parts" and paragraph 57).

**Claim 12 and 23:** Eckenwiler provides a teaching of a computer readable medium useful in association with a computer which includes a processor and memory (see FIG 1 item 12), in which a computer instruction (or training module) that are configured to cause the computer to train a user to perform a task which includes movement of two ore more items in a randomized state (see Abstract) comprises of: representing in a computer the item in the randomized state (see paragraph 24-25 the randomized state is equated to the pre-sorted item); moving the times

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as represented with in the computer in accordance with the signal generated by the user (see paragraph 31-33 and FIG. 4) and verifying in the computer that the items as moved are in the organized state (see FIG 1 item "initial pack" – "most efficient pack" ).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 2, 13 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Eckenwiler et al US 2003/0163292.**

**Claim 2, 13 and 24:** Eckenwiler fails to provide a teaching where the task in packing a retail carrier bags. Instead the Eckenwiler reference provides a teaching where the task in packing a retail box (see Eckenwiler paragraph 18). At the time of the invention, it would have been considered a design choice to replace the retail box, as disclosed by Eckenwiler, with the retail carrier bags as claimed by the applicant invention. One of ordinary skill in the art, furthermore, would have expected Eckenwiler retail box, and applicant's invention, to perform equally well with either the retail box as taught by Eckenwiler or the retail carrier bags because both would perform equally well in teaching a user how to pack items to a container.

Therefore, it would have been prima facie obvious to modify Eckenwiler to obtain the invention as specified in claim 2 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Eckenwiler.

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**6. Claims 6-7, 10, 17-18, 21, 28-29 and 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Eckenwiler et al US 2003/0163292 in view of Chowdury US 6,876,958.**

**Claim 6-7, 17-18 and 28-29:** Eckenwiler does not provide a teaching where the quantifying comprises of determining that a crushable one of the items in one of the organized state is in a lower position within the carrier (Claim 6, 17 and 28) or determining the breakable one of the item in one organized state is in a lower corner position within the carrier (Claim 7, 18 and 29). However, Chowdury provides a teaching where the quantifying is determined by the determining the fragile item be placed in a certain position in the container (see Chowdury col. 9:14-31). Therefore, it would have been obvious for one of ordinary skilled in the art to include the feature of quantifying by the determining the fragile item be placed in a certain position in the container, as taught by Chowdury, because it would help the user be able to take into account possible damage (see Chowdury see 9:15-20).

**Claim 10, 21 and 32:** Eckenwiler does not provide a teaching of determining an amount of time taken to perform a task to achieve the organized state. However, Chowdury provides a teaching of determining an amount of time taken to perform a task to achieve the organized state (see col. 8:35-40). Therefore, it would have been obvious for one of ordinary skilled in the art to include the feature of determining an amount of time taken to perform a task to achieve the organized state, as taught by Chowdury, because it would help a user maximize his/her packing efficiency (see col. 8:55-67).

**7. Claims 11, 22 and 33 rejected under 35 U.S.C. 103(a) as being unpatentable over Eckenwiler et al US 2003/0163292 in view of Lee et al US 5,441,415.**

**Claim 11, 22 and 33:** Eckenwiler provides a teaching of recording the score with one or another quantified score for the user (see FIG 17 item 164). However, it does not provide a teaching for having a database accessible to an administrator on a network. However, Lee

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provides a teaching of having a database accessible to an administrator on a network (See FIG. 1 item 42, 44 and 40). Therefore it would have been obvious to one of ordinary skill in the art to include the feature of having a database accessible to an administrator on a network, as taught by Lee, because it would allow an administrator to guide the user (see Lee col. 2:45-67).

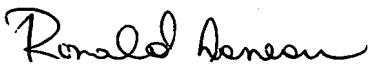
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Utama whose telephone number is (571) 272-1676. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezutto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RU

  
**RONALD LANEAU**  
**PRIMARY EXAMINER**  
**ART UNIT 3714**

8/3/07